

**CONVENTION
ON THE MUTUAL RECOGNITION
OF COMPANIES AND BODIES CORPORATE
(signed on 29 February 1968)**

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Conventions concluded by the Member States of the European
Communities pursuant to EEC Treaty Article 220

PREAMBLE

The High Contracting Parties to the Treaty establishing the European Economic Community,

Being desirous of implementing the provisions of Article 220 of the said Treaty concerning the mutual recognition of companies within the meaning of Article 58, second paragraph,

Whereas the mutual recognition of companies or firms within the meaning of Article 58, second paragraph, should be as liberal as possible, without prejudice to the application to companies of the other provisions of the Treaty,

Have decided to conclude the present Convention on the mutual recognition of companies and bodies corporate and have for this purpose nominated as plenipotentiaries:

His Majesty the King of the Belgians:

M. Pierre Harmel, Minister for Foreign Affairs;

The President of the Federal Republic of Germany:

M. Willy Brandt, Vice-Chancellor and Minister for Foreign Affairs;

The President of the French Republic:

M. Maurice Couve de Murville, Minister for Foreign Affairs;

The President of the Italian Republic:

M. Amintore Fanfani, Minister for Foreign Affairs;

His Royal Highness the Grand-Duke of Luxembourg:

M. Pierre Grégoire, Minister for Foreign Affairs;

Her Majesty the Queen of the Netherlands:

M. J.M.A.H. Luns, Minister for Foreign Affairs;

Who, meeting in the Council, having exchanged their Full Powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

CHAPTER I

RECOGNITION: SCOPE AND CONDITIONS

Article 1

Companies under civil or commercial law, including co-operative societies, established in accordance with the law of a Contracting State which grants them the capacity of persons having rights and duties, and having their statutory registered office in the territories to which the present Convention applies, shall be recognized as of right.

Article 2

Bodies corporate under public or private law, other than the companies specified in Article 1, which fulfil the conditions stipulated in the said Article, which have as their main or accessory object an economic activity normally exercised for reward, and which, without infringing the law under which they were established, do in fact continuously exercise such activity, shall also be recognized as of right.

Article 3

Notwithstanding the foregoing, any Contracting State may declare that it will not apply the present Convention to any companies or bodies corporate specified in Articles 1 and 2 which have their real registered office outside the territories to which the present Convention applies, if such companies or bodies corporate have no genuine link with the economy of one of the said territories.

Article 4

Any Contracting State may also declare that it will apply any provisions of its own legislation which it deems essential, to the companies or bodies corporate specified in Articles 1 and 2 having their real registered offices on its territory, even if these have been established in accordance with the law of another Contracting State.

The supplementary provisions of the legislation of the State making such a declaration shall apply in only one of the following two cases :

- (i) If the memorandum and articles of association so permit, if necessary by an express general reference to the law in accordance with which the company or body corporate has been established,

(ii) If, the memorandum and articles of association so permitting, the company or body corporate fails to show that it has actually exercised its activity for a reasonable time in the Contracting State in accordance with the law under which it was established.

Article 5

For the purpose of this Convention, the real registered office of a company or body corporate shall mean the place where its central administration is established.

CHAPTER II

RECOGNITION: EFFECTS

Article 6

Without prejudice to the application of Article 4, all companies or bodies corporate recognized by virtue of this Convention shall have the capacity accorded to them by the law under which they were established.

Article 7

Any State in which recognition is sought may refuse such companies or bodies corporate any rights and powers specified which it does not grant to companies or bodies corporate of a similar type which are governed by its own laws. However, the exercise of this power may not result in the withdrawal from such companies or bodies corporate of their capacity, as persons having rights and duties, to award contracts, or to accomplish other legal acts or to sue or be sued.

The companies or bodies corporate referred to in Articles 1 and 2 may not invoke the restrictions on their rights and powers specified in this Article.

Article 8

The capacity, rights and powers of a company recognized by virtue of this Convention may not be denied or restricted for the sole reason that the law in accordance with which it was established does not grant it the legal status of a body corporate.

CHAPTER III

PUBLIC POLICY

Article 9

In each Contracting State, the application of this Convention may only be waived when the company or body corporate invoking it contravenes by its object, its purpose or the activity which it actually exercises the principles or rules which the said State considers as being a matter of public policy as defined in private international law.

If the law under which a single proprietorship is established allows it to possess the status of a company, such company may not for that reason alone be considered by a Contracting State as conflicting with public policy as defined in private international law.

Article 10

Principles or rules contrary to the provisions of the Treaty establishing the European Economic Community may not be deemed a matter of public policy within the meaning of Article 9.

CHAPTER IV

FINAL PROVISIONS

Article 11

In relations between the Contracting States, this Convention shall apply notwithstanding any conflicting provisions concerning recognition of companies or bodies corporate contained in other conventions to which the Contracting States are or will be parties.

However, the present Convention shall be without prejudice:

- (i) To those rules of municipal law
- (ii) And to those provisions of international conventions

which are or will be in force and which provide for recognition in other cases or with wider effects, provided that such recognition or such effects are compatible with the Treaty establishing the European Economic Community.

Article 12

This Convention shall apply to the European territories of the Contracting States, to the French Overseas Departments and to the French Overseas Territories.

Any Contracting State may declare by notification to the Secretary-General of the Council of the European Communities that this Convention applies to the country or countries, or to the territory or territories indicated in the said declaration, whose international relations it governs.

Article 13

This Convention shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

Article 14

This Convention shall come into force on the first day of the third month following deposit of the instrument of ratification by the last signatory State to complete this formality.

Article 15

The declarations specified in Articles 3 and 4 must be made for each signatory State no later than the time when its instrument of ratification of this Convention is deposited. They shall take effect on the day this Convention comes into force. If the declaration specified in Article 12, second paragraph, is made no later than the time when the sixth instrument of ratification of this Convention is deposited, it shall take effect on the day this Convention comes into force; if the declaration is made at a later date, it shall take effect on the first day of the third month following receipt of its notification.

Any Contracting State may at any time withdraw either or both of the declarations made by virtue of Articles 3 and 4. The withdrawal shall take effect on the first day of the third month following the receipt of its notification by the Secretary-General of the Council of the European Communities. It shall be final.

Article 16

The Secretary-General of the Council of the European Communities shall notify the signatory States of:

- (i) The deposit of every instrument of ratification;
- (ii) The date of entry into force of this Convention;
- (iii) The declarations and notifications received in pursuance of Articles 3, 4, 12, second paragraph, and 15, second paragraph;
- (iv) The dates when these declarations and notifications take effect.

Article 17

This Convention shall be concluded for an indefinite period.

Article 18

Any Contracting State may request the revision of the present Convention. In this event, a revision conference shall be convened by the President of the Council of the European Communities.

Article 19

This Convention, drawn up in one original only, in German, French, Italian and Dutch, the four texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall supply a certified true copy to the Government of each signatory State.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have affixed their signatures to this Convention.

Done at Brussels, on the twenty-ninth day of February, nineteen hundred and sixty-eight.

For His Majesty the King of the Belgians,

Pierre Harmel.

For the President of the Federal Republic of Germany,

Willy Brandt.

For the President of the French Republic,

Maurice Couve de Murville.

For the President of the Italian Republic,

Amintore Fanfani.

For His Royal Highness the Grand-Duke of Luxembourg,

Pierre Grégoire.

For Her Majesty the Queen of the Netherlands,

Joseph M.A.H. Luns.

PROTOCOL

Upon signing the text of the Convention on the mutual recognition of companies and bodies corporate, the plenipotentiaries of the High Contracting Parties to the Treaty establishing the European Economic Community adopted the texts of the following three declarations:

JOINT DECLARATION No. 1

The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

Declare that Article 1 of this Convention applies to the *società semplice* in Italian law and the *vennootschap onder firma* in Netherlands law.

JOINT DECLARATION No. 2

The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

Declare themselves ready to engage, as may be necessary under association agreements, in negotiations with any Associated State of the European Economic Community with a view to the mutual recognition of companies and bodies corporate within the meaning of Articles 1 and 2 of the aforesaid Convention.

JOINT DECLARATION No. 3

The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

Being desirous of ensuring that the Convention is applied as effectively as possible,

Being anxious to prevent differences of interpretation from impairing the unity of the Convention,

Declare themselves ready to study ways and means of achieving these ends, notably by examining the possibility of conferring certain powers on the Court of Justice of the European Communities, and, as appropriate, to negotiate an agreement to this effect.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have affixed their signatures to this Protocol.

Done at Brussels, on the twenty-ninth day of February, nineteen hundred and sixty-eight.

For His Majesty the King of the Belgians,
Pierre Harmel.

For the President of the Federal Republic of Germany,
Willy Brandt.

For the President of the French Republic,
Maurice Couve de Murville.

For the President of the Italian Republic,
Amintore Fanfani.

For His Royal Highness the Grand-Duke of Luxembourg,
Pierre Grégoire.

For Her Majesty the Queen of the Netherlands,
Joseph M.A.H. Luns.